

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
FILE NO. 5:08-cv-00403

SMD SOFTWARE, INC., a North Carolina corporation, and SITELINK SOFTWARE, LLC, a North Carolina limited liability company,

Plaintiffs,

v.

U-HAUL INTERNATIONAL, INC. a Nevada corporation,

Defendant.

NOTICE OF REMOVAL

TO: The United States District Court
For the Eastern District of North Carolina

U-Haul International, Inc. (hereinafter “Defendant”), by and through its undersigned counsel, does hereby exercise its rights under the provisions of Title 28 U.S.C. §§ 1441 and 1446 to remove this action from the General Court of Justice, Superior Court Division, Wake County, North Carolina, in which this cause is now pending, and states as follows:

1. On July 14, 2008, Plaintiffs SMD Software, Inc. and Sitelink Software, LLC filed a Complaint in the General Court of Justice, Superior Court Division of Wake County, State of North Carolina, captioned, *SMD Software Inc., a North Carolina corporation, and Sitelink Software, LLC, a North Carolina limited liability company v. U-Haul International, Inc., a Nevada corporation*. The case was assigned Case No. 08 CVS 12198 (the “State Court Action”).

2. A Summons and the Complaint were served on Defendant on July 21, 2008 by certified mail. In accordance with 28 U.S.C. § 1446(a), a true and correct copy of the Summons

and Complaint is attached hereto as Exhibit A. To the knowledge of Defendant, no further process, pleadings or orders have been filed or served in the State Court Action, and no trial or hearings have been set in such action.

3. Defendant has not yet filed a responsive pleading in the State Court Action. In filing this Notice of Removal, Defendant does not waive any defense or counterclaim that may be available to it.

4. Plaintiffs assert claims against Defendant for general damages as a result of alleged business and marketing practices relating to software products. Plaintiffs allege the following causes of action: defamation, unfair and deceptive trade practices, and tortious product disparagement.

5. This is an action of a civil nature in which the District Courts of the United States have been given original jurisdiction pursuant to Title 28 U.S.C. Sec. 1332 in that complete diversity of citizenship exists as between the Plaintiffs and Defendant, and the amount in controversy exceeds the statutory minimum of \$75,000, exclusive of interest and costs. Upon information and belief, as alleged in their Complaint, Plaintiffs are a corporation and a limited liability company founded in North Carolina, both with their principal place of business in Raleigh, North Carolina. Defendant is a Nevada corporation with a principal place of business in Arizona.

6. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because it is filed within thirty (30) days of Defendant receiving a document from which it was first ascertained that the case is removable.

7. The United States District Court for the Eastern District of North Carolina is the district within which the State Court Action is pending.

8. Service of this Notice of Removal is being made on all parties as required by 28 U.S.C. § 1446(d).

9. As required by 28 U.S.C. § 1446(d), a copy of this Notice will be filed with the Clerk of the General Court of Justice, Superior Court Division of Wake County, State of North Carolina, and is being served on Plaintiff's counsel as shown by the attached certificate of service.

WHEREFORE, Defendant U-Haul International, Inc. prays that this action be removed to this Court for further proceedings, as though this action had originally been instituted in this Court.

This 20th day of August, 2008.

YOUNG MOORE AND HENDERSON, P.A.

BY: /s/ Christopher A. Page
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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that he served the foregoing Notice of Removal upon the attorney shown below by depositing a copy of same in the United States mail, postage prepaid, addressed to said attorney.

This the 20th day of August, 2008.

YOUNG MOORE AND HENDERSON, P.A.

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92045-002/790010